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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA

Original
FILED
MAR 26 PM 3:50
RICHARD B. WICKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SC

SOUTH BAY ISLAMIC CENTER,

Plaintiff,

vs.

EMILIO GONZALEZ, Director,
U.S. Citizenship & Immigration Service,

Defendant.

CV CASE NO. 08

1643

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTION

Plaintiff alleges:

1. This action is brought pursuant to the provisions of 28 U.S.C. § 1331 and 5 U.S.C. §§ 701 - 706.

2. Defendant is the Director of the United States Citizenship and Immigration Services, (USCIS), an agency of the United States as defined by 5 U.S.C. §701(b)(1), charged with the duty to administer and enforce the Immigration and Nationality Act (INA), including the adjudication of petitions filed by petitioners under with 8 C.F.R. §204.5(m) to accord qualified religious workers, classification under INA §203(b)(4), 8 U.S.C. §1153 (b)(4).

3. Plaintiff, South Bay Islamic Center (SBIC) is a non-profit corporation, granted tax-exempt status under section 503(c)(3) of the Internal Revenue Code, 26 U.S.C. 503(c)(3) as it relates to religious organizations. See attached Letter from the U.S. Internal Revenue Service (IRS). Exhibit A.

4. On December 13, 2005, plaintiff filed a "Petition for Amerasian, Widower or Special Immigrant" (Form I-360) with defendant on behalf of Imam Rafique Ahmed, seeking

Complaint for Declaratory Judgment and Injunction

1 classification under INA §101(a)(27)(C)(iii), 8 U.S.C. 101(a)(27)(C)(iii). See attached "Notice
2 of Action/Receipt Notice, Exhibit B.

3 5. Defendant has failed and continues to fail to lawfully adjudicate plaintiff's
4 petition.

5 6. Defendant, in failing to lawfully adjudicate plaintiff's petition within a reasonable
6 period, has acted arbitrarily, capriciously and contrary to law.

7 7. There is a real and actual controversy between the parties. Plaintiff has no
8 adequate remedy at law. Plaintiff has suffered and continues to suffer irreparable injury as a
9 result of defendant's failure to lawfully adjudicate it's petition.

10 WHEREFORE, plaintiff prays for judgment:

11 1. Declaring that defendant has unlawfully withheld and delayed adjudication of
12 plaintiff's petition;


13 2. Enjoining defendant to complete his review and lawfully adjudication of
14 plaintiff's petition forthwith;

15 3. Awarding plaintiff costs and reasonable attorneys fees incurred in this action; and

16 4. Granting such other and further relief as may be appropriate.

17 Date: March 26, 2008

18 Respectfully submitted.

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22 DAVID J. KAUFMAN
23 Attorney For Plaintiff
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10/26/2005 11:17 FAX 613 263 3756

TE/GE CINTI

002/002

Internal Revenue Service

Date: October 24, 2005

SOUTH BAY ISLAMIC ASSOCIATION
325 THIRD ST
SAN JOSE CA 95112

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Schaquistia Bolton 31-08028
Customer Service Representative
Toll Free Telephone Number:
877-829-5500
Federal Identification Number:
94-2683384

Dear Sir or Madam:

This is in response to your request of October 24, 2005, regarding your organization's tax-exempt status.

In November 1980 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a church under sections 509(a)(1) and 170(b)(1)(A)(i) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Janna K. Skufca, Director, TE/GE
Customer Account Services

Ex A

at Wed 10/26/2005 9:41 AM 2/2

to David Kaufman

From Muhammad Janjua

THE UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-06-035-52269		CASE TYPE I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIVED DATE December 13, 2005	PRIORITY DATE	PETITIONER SOUTH BAY ISLAMIC ASSOCIATION
NOTICE DATE December 16, 2005	PAGE 1 of 1	BENEFICIARY AHMED, RAFIQUE
DAVID J. KAUFMAN KAUFMAN LAW OFFICE RE: SOUTH BAY ISLAMIC ASSOCIATION 220 MONTGOMERY ST STE 976 SAN FRANCISCO CA 94104		Notice Type: Receipt Notice Amount received: \$ 190.00 Section: Special Immigrant-Religious Worker, Sec.101(a)(27)(C)(ii)

Receipt notice - If any of the above information is incorrect, call customer service immediately.

Processing time - Processing times vary by kind of case.

- You can check our current processing time for this kind of case on our website at uscis.gov.
- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.
- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.
- We will notify you by mail when we make a decision on this case, or if we need something from you. If you move while this case is pending, call customer service when you move.
- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update.

If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.

Notice to all customers with a pending I-130 petition - USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel <<http://www.state.gov/travel>> to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

If this receipt is for an I-485, or I-698 application

USCIS WILL SCHEDULE YOUR BIOMETRICS APPOINTMENT. You will be receiving a biometrics appointment notice with a specific time, date and place where you will have your fingerprints and/or photos taken. You MUST wait for your biometrics appointment notice prior to going to the ASC for biometrics processing. This I-797 receipt notice is NOT your biometrics appointment notice and should not be taken to an ASC for biometrics processing.

WHAT TO BRING TO YOUR BIOMETRICS APPOINTMENT-

Please bring your biometrics appointment letter (with specific time, date and place where you will have your fingerprints and/or photo taken) AND your photo identification to your biometrics appointment.

Acceptable kinds of photo identification are:

- a passport or national photo identification issued by your country,
- a drivers license,
- a military photo identification, or
- a state - issued photo identification card.

Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283



Ex B